

10/09/2009

Comments on AB400

Mike Mokler

President of the Wisconsin Rental Housing Legislative Council

We are not opposed to this bill, as it is what most rental housing providers do when these situations arise and these situations do happen.

We do have some concerns. Most of these concerns are minor changes.

Our Concerns:

1. The Bill should allow for rekeying the lock as this is the way it is usually done. It is cheaper and accomplishes the same thing.
2. The Bill should be clear that the lock to be changed is the key to the specific dwelling unit and not to any common areas, such as an outside entrance to a hallway, as this would be much more expensive if it involves other dwelling units and multiple keys. It would also take longer to respond as multiple tenants and their keys would be involved.
3. If the tenant has the lock rekeyed or changed, the housing provider must be given a key immediately to the dwelling unit for maintenance and safety reasons.
4. Many properties use master keys. It should be specified that the new lock must be keyed to the master if one exists. If many units are involved it is necessary to use masters as key management can be very complicated and keys must be kept secure for the tenant safety.
5. Under current law a housing provider can be put in a difficult situation, where denying a key to a tenant would constitute an illegal "constructive eviction". Following the law can be the wrong thing to do. If the victim and the aggressor are both on the same lease, there is no provision in the law saying the landlord can refuse to give the aggressor a key to the leased premises. I do not think this bill adequately addresses this issue because the injunction or court order does not apply to the landlord, only the aggressor. When faced with this problem I do not think any housing provider would provide a key to the aggressor, but it does appear to create a legal problem.

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October 6, 2009

TO: Members, Senate Judiciary, Corrections, Insurance,
Campaign Finance Reform Committee

Assembly Housing Committee

FROM: Joe Murray
Director of Political and Governmental Affairs

RE: SB 274/AB 400 – Requiring Landlords to Change Locks

Senate Bill 274/AB 400 requires a landlord to change the locks, or give a tenant the right to change the locks, if the tenant faces imminent threat of serious physical harm from another person if the tenant remains on the property. The locks must be changed within 48 hours after a landlord receives the request and a certified copy of the required proof for the need to change the locks.

The Wisconsin REALTORS® Association (WRA) has a concern with SB 274 that we believe can be remedied with one simple amendment.

The WRA would like to amend SB 274/AB 400 to require the tenant to provide the landlord with a copy of the new key within 24 hours when the locks are changed by the tenant with permission/agreement from the landlord. We believe this simple amendment is necessary for the following reasons:

1. Landlords must be able to enter apartments in a legal and timely manner to address routine maintenance issues and other potential emergency issues such as water or fire problems. Without a key to the unit in emergencies, a landlord would find it necessary to break in and charge tenants with repair costs.
2. With proper notice, landlords have the right to inspect a tenants unit. Without a key, this would be far more difficult and potentially more expensive.
3. Tenants frequently lock themselves out of their units for a variety of reasons. Landlords must have a key to retain access to the unit.

We urge the Committee to address these important issues and require the tenant to provide the landlord with a key when the tenant changes the locks (or re-keys) with permission granted by the landlord as specified in both bills.



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Preserving, protecting and promoting Wisconsin's unique quality of life... one home at a time.

Testimony



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To: Members of the Senate and Assembly Committees on Housing

From: Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence

Date: October 7, 2009

Re: Assembly Bill 400/Senate Bill 274 – The Lock Out Abusers Act

Chairpersons Young and Taylor and Members of the Committees, thank you for the opportunity to provide testimony on the Lock Out Abusers Act. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV extends its deep thanks to Representative Dexter and Senator Holperin for working to create policies that will keep victims of domestic violence, sexual assault and stalking safe in their homes. WCADV fully supports the Lock Out Abusers Act.

WCADV represents over 60 local programs that serve victims in all of Wisconsin's 72 counties and 11 tribes. The mission of local programs is to empower victims to be safe and lead independent lives. Victims often seek help in the immediate aftermath of violent incidents. Victim advocates know that this is an especially dangerous time. Repeated and escalating acts of intimate partner violence are most likely to occur within 24-72 hours after an initial assault. Advocates work with victims to develop safety plans, which outline strategies to remain safe.

Changing the locks to a victim's apartment is a reasonable safety measure.

One commonsense element of safety plans is having the locks to the victim's home changed, especially when the abuser is likely to have a key. There are usually terms in rental leases that prevent tenants from unilaterally changing the locks to their apartments. No one should have to helplessly remain in her home, when the criminal that violently attacked her could walk through the door at anytime.

The Lock Out Abusers Act addresses this situation by creating an expedited procedure for having the locks changed. If a victim of domestic violence, sexual assault or stalking provides written notice and a copy of a permanent restraining order, criminal complaint or condition of release, her landlord must change the locks to the apartment within 48 hours or give the victim permission to make the change. The bill addresses situations where the abuser is a co-tenant and requires in these situations that the victim provide documentation indicating that the perpetrator is legally prohibited from being on the premises. With these laws in place, victims will have peace of mind that they can quickly be more secure in their homes.

The Lock Out Abusers Act is designed to not place a financial burden on landlords.

The bill does not require the landlord to pay for the cost of changing the locks. This cost can be passed on to the tenant, and as mentioned above, the only affirmative action required under the bill is that the landlord give authorization for the locks to be changed. Additionally, WCADV supports an amendment put forth by Representative Dexter and Senator Coggs to ensure that landlords do not bear other costs. The amendment will clarify that landlords are immune from civil liability (liability for improper eviction, for example) for actions taken in accordance with the Lock Out Abusers Act. The amendment also clarifies that abusers are not relieved of lease obligations.

Thank you again for the opportunity to provide testimony. The Lock Out Abusers Act will keep more victims in Wisconsin safe and has the potential to save lives. I urge the Committees to approve the legislation.



STATE REPRESENTATIVE
KRISTEN DEXTER

WISCONSIN STATE ASSEMBLY

68TH DISTRICT

**Testimony from Representative Kristen Dexter
October 7, 2009**

**Committee on Housing
In Support of Assembly Bill 400**

Mr. Chairman, Committee members, thank you for convening today to hold this hearing on Assembly Bill 400, the "Lock Out Abusers Act"

Senator Holperin and I are introducing legislation that would protect victims of domestic violence, sexual assault, and stalking by requiring landlords – or allowing victims - to change the locks of the victim's residence in a timely fashion. According to the US Department of Justice, the risk of repeat domestic violence is highest in the first days following the initial attack.

AB 400 would allow a tenant to provide documentation of a threat, using a criminal complaint, condition of release or permanent restraining order, to his or her landlord, requiring the landlord to act to change the locks on the victim's residence within 48 hours. The landlord has the option of giving the victim permission to change the locks themselves. The cost of this process may be passed on to the tenant, resulting in no additional costs to the landlord.

Similar laws exist in Arizona, Arkansas, the District of Columbia, Illinois, Indiana, North Carolina, Oregon, Utah, Virginia and Washington. With this law Wisconsin would join the nine other states in protecting Wisconsin residents by impeding repeat victimization.

Since the bill's introduction my office has met with the WI Realtors Association and the WI Apartment Association to discuss some concerns that they had about the bill. The outcome of those meetings is reflected in the amendment that you have in front of you.

The amendment focuses on situations when the domestic violence victim and perpetrator live together and have cosigned on a lease. Under the bill, if the perpetrator is legally prohibited from being present at the residence, either because of a restraining order or condition of release, then the victim may have the locks changed. The amendment clarifies that the landlord is immune from civil damages if the perpetrator claims the lock change constituted an unlawful eviction. The amendment also allows the landlord to hold the perpetrator liable for rent charges.

Again, thank you for convening today and I hope that we can work together to pass Assembly Bill 400 as amended.